

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE DEPOMED PATENT
LITIGATION**

Civil Action No.: 2:13-cv-04507 (CCC-MF)

ORDER

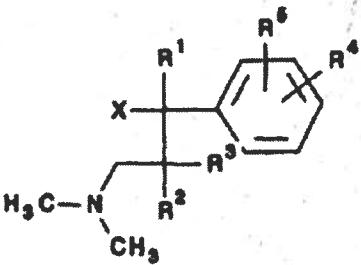
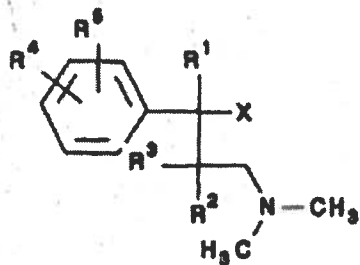
CECCHI, District Judge.

This matter comes before the Court upon application of Plaintiffs Depomed, Inc. and Grünenthal Pharmaceuticals, Inc. (collectively, “Plaintiffs”) as well as Defendants Actavis Elizabeth LLC, Alkem Laboratories Limited, and Roxane Laboratories, Inc. (collectively, “Defendants”) for claim construction, pursuant to Local Patent Rule 4.5. For the reasons set forth in this Court’s accompanying Opinion,

IT IS on the 5th day of February, 2016,

ORDERED that the disputed claim language of United States Patent RE39,593 (the “RE593 Patent”) is construed as follows:

<u>Disputed Claim Term</u>	<u>Court’s Construction</u>
an isolated . . . diastereo[iso]mer	a diastereo[iso]mer that may have present small amounts of other diastereo[iso]mers of the same compound, such as would be remaining after separation or synthesis

<u>Disputed Claim Term</u>	<u>Court's Construction</u>
such that X and the dimethylamino group are disposed threo in relation to each other	<p>such that X and the substituent containing the dimethylamino group are bound to two adjacent chiral centers and are on the same side in the following correct Fischer projections for formulae Ia' and Ic':</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Fischer projection for formula Ia'</p> </div> <div style="text-align: center;">  <p>Fischer projection for formula Ic'</p> </div> </div>
(-)-(1R,2R)-3-(3-dimethylamino-1-ethyl-2-methylpropyl)-phenol hydrochloride (-21)	the chemical compound (-)-(1R,2R)-3-(3-dimethylamino-1-ethyl-2-methylpropyl)-phenol hydrochloride depicted by the structural formula identified by the number (-21) in Example 25 of the RE593 patent

and it is further

ORDERED that the disputed claim language of United States Patent No. 7,994,364 (the “364 Patent”) is construed as follows:

<u>Disputed Claim Term</u>	<u>Court's Construction</u>
essentially the same as	No construction necessary – plain meaning

SO ORDERED.


HON. CLAIRE C. CECCHI
 United States District Judge